



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 03 2019

REPLY TO THE ATTENTION OF:

WC-15J

CERTIFIED MAIL 7016 3560 0000 4829 8177
RETURN RECEIPT REQUESTED

Ex. 6 (Personal Privacy)
Ponderosa Dairy, LLC
Attention: Ex. 6 (Personal Privacy)
N4893 County Road C
Kewaunee, Wisconsin 54216

Subject: Administrative Order on Consent for Compliance Pursuant to 33 U.S.C. § 1319(a)

Dear Ex. 6 (Personal Privacy):

Enclosed you will find the final Administrative Order on Consent (AOC) to mitigate alleged violations of Wisconsin Pollutant Discharge Elimination System (WPDES) permit WI-0059374. United States Environmental Protection Agency conducted an inspection at Ex. 6 (Personal Privacy) Ponderosa on March 8th and 9th, 2017 and collected documents for the file audit.

As a result of the inspection and file audit, EPA identified alleged permit violations including nitrogen over-application and several reporting violations. During discussions with EPA, measures to correct the alleged violations were identified. The enclosed final AOC outlines those compliance measures. The effective date of the AOC is the date the AOC was signed by EPA.

Thank you for your efforts to protect water quality. If you have any questions or concerns, please contact Cheryl Burdett of my staff, at (312) 886-1463 or burdett.cheryl@epa.gov, or your legal counsel may contact Jacqueline Clark, Associate Regional Counsel, at (312) 353-4191 or clark.jacqueline@epa.gov.

Sincerely,

for Joan M. Tanaka
Acting Director, Water Division

Enclosure

cc: Andrea Gruen, Wisconsin Department of Natural Resources, by e-mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Ex. 6 (Personal Privacy)
Ponderosa Dairy, LLC
N4893 County Road C
Kewaunee, Wisconsin 54216

Respondent

)
) CONSENT ORDER FOR
) COMPLIANCE UNDER
) SECTION 309 OF THE
) CLEAN WATER ACT
)
)

I. INTRODUCTION

1. The U.S. Environmental Protection Agency ("EPA") makes the findings of fact set forth below (Section IV) and is issuing this Administrative Order on Consent ("Order on Consent" or "Order") to Ex. 6 (Personal Privacy) Ponderosa Dairy, LLC ("Respondent" or Ex. 6 (Personal Privacy)) under the authority of Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA, Region 5, who has redelegated this authority to the Director of the Water Division, EPA, Region 5.
2. This Order is mutually entered into by EPA and Respondent.
3. At all times relevant to this Order, Respondent has owned and operated the Ex. 6 (Personal Privacy) Ponderosa Dairy, LLC, located at N4893 County Road C, Kewaunee, Wisconsin 54205 (the "Facility").
4. EPA alleges that Respondent failed to comply with National Pollutant Discharge Elimination System ("NPDES") Permit No. WI-0059374-03-0 and Permit No. WI-0059374-04-0 at the Ex. 6 (Personal Privacy) Ponderosa Dairy, LLC Facility.
5. By entering into this Order, Respondent: (1) consents to EPA's authority to issue and enforce this Order; (2) neither admits nor denies the factual allegations as set forth in this Order; (3) agrees to undertake all actions required by the terms and conditions of this Order; (4) consents to be bound by the requirements set forth herein; and (5) agrees not to contest the authority of EPA to issue or enforce this Order or the validity of any terms or conditions in this Order.
6. For the purposes of this Order only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedures Act, 5 U.S.C. §§ 701-706.

II. STATUTORY AUTHORITY

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
8. Section 402 of the CW, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administrator their own permit programs for discharges into navigable waters within their jurisdictions.
9. Pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the State of Wisconsin requested approval from EPA to administer its own permit program for discharges into navigable waters within Wisconsin, and such approval was granted by EPA on February 4, 1974, 39 Fed. Reg. 26,061 (July 16, 1974). Therefore, pursuant to the State's permit program, the Wisconsin Department of Natural Resources ("WDNR") has issued NPDES permits.
10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides that whenever EPA finds that any person is in violation of any condition or limitation that implements, *inter alia*, Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, EPA shall issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

III. DEFINITIONS

11. All terms used, but not defined, in this Order have meanings provided to them in the CWA, 33 U.S.C. § 1251 *et seq.*, and the EPA regulations promulgated under the CWA.
12. "Act" or "CWA" means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
13. "Agricultural Stormwater discharge" means a precipitation related discharge of manure or process wastewater to surface waters from a land application area that may occur after the owner or operator of the CAFO has land applied the manure or process wastewater in compliance with the nutrient management requirements of this chapter and terms and condition of WPDES permit WI-0059374 and NR 243.03(2)(b).
14. "Animal feeding operation" or "AFO" means, among other things, "a lot or facility where:
 - (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period and

- (ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.”
40 C.F.R. § 122.23(b)(1).
15. “Concentrated animal feeding operation” or “CAFO” means, an AFO that is defined as, among other things, a Large CAFO. 40 C.F.R. § 122.23(b)(2).
16. “Day” or “days” means a calendar day or calendar days unless expressly stated to be a business day. When computing any period of time under this Order, should the last day fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.
17. “Discharge” or “discharge of a pollutant” means, among other things, any addition of any pollutant to navigable waters from any point source. Sections 502(12), (16) of the CWA, 33 U.S.C. §§ 1362(12), (16); 40 C.F.R. § 122.2.
18. “Effective Date” has the definition provided in Section VIII of this Order.
19. “EPA” means the United States Environmental Protection Agency and any of its successor department or agencies.
20. “Facility” means the [REDACTED] ^{Ex. 6 (Personal Private)} Ponderosa Dairy, LLC located at N4893 County Road C, Kewaunee, Wisconsin, and includes Respondent’s operations at N5318 County Road E, Kewaunee, Wisconsin.
21. “Land application area” means land under the control of the Respondent, whether that land is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied. *See* 40 C.F.R. § 122.23(b)(3).
22. “Large CAFO” means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following ranges: 1,000 cattle other than mature dairy cows or veal calves; 700 mature dairy cows, whether milked or dry; 1,000 veal calves; 2,500 swine each weighing 55 pounds or more; 10,000 swine each weighing less than 55 pounds; 500 horses; 10,000 sheep or lambs; 55,000 turkeys; 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system; 125,000 chickens (other than laying hens) if the AFO uses other than a liquid manure handling system; 82,000 laying hens if the AFO uses other than a liquid manure handling system; 30,000 ducks if the AFO uses other than a liquid manure handling system; or 5,000 ducks if the AFO uses a liquid manure handling system; *See* 40 C.F.R. § 122.23(b)(4).
23. “Manure” means “manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.” 40 C.F.R. § 122.23(b)(5).

24. "NPDES Permit" and "Permit" means the permit issued in accordance with the National Pollutant Discharge Elimination System (NPDES) pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. In this Order, these terms mean NPDES Permit No. WI-0059374-04-0, issued by the State of Wisconsin to Respondent for Pagel's Ponderosa Dairy, LLC Facility with the effective date of April 1, 2016, and expiration date of March 31, 2021. For purposes of Sections IV through IX of this Order, "Permit" also means any prior and/or subsequent NPDES permits issued by the State of Wisconsin to Respondent for the ^{Ex. 6 (Personal Privacy)} Ponderosa Dairy, LLC Facility until such time as this Order is terminated.
25. "Nutrient management plan" and "NMP" means the Facility's WDNR approved nutrient management plan (NMP) as required by the Permit and Wisconsin Administrative Code Chapter NR 243.14 ("NR 243"), including annual updates submitted under the Permit.
26. "Order on Consent" and "Order" means this document, all attachments, hereto, and all subsequent modifications thereto, including incorporated submissions from Respondent, as described in Paragraph 46.
27. "Paragraph" means a portion of this Order identified by an Arabic numeral.
28. "Parties" means the EPA and Respondent.
29. "Person" as defined in Section 502(5) of the CWA, means an "individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." 33 U.S.C. § 1362(5)
30. "Respondent" means ^{Ex. 6 (Personal Privacy)} Ponderosa Dairy, LLC.
31. "Site" means the facility or facilities owned and/or operated by Respondent located at or near N4893 County Road C, Kewaunee, Wisconsin 54216; including, but not limited to, the land application area, the production area, and adjacent land used in connection with the land application area and/or production area.
32. "State" means the State of Wisconsin.
33. "Waters of the United States" means, in accordance with 40 C.F.R. § 122.2, among other things:
- a. all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce;
 - b. all interstate waters;
 - c. all other waters such as intrastate lakes, rivers, streams (including intermittent streams), the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

- d. all impoundments of waters otherwise defined as waters of the United States under this definition; and
 - e. tributaries of waters identified in paragraphs (a) through (d) of this definition.
34. "WDNR" means the Wisconsin Department of Natural Resources and any successor departments, agencies, or instrumentalities of the State.
35. "Work" means any and all activities Respondent is required to undertake and accomplish under this Order.

IV. FINDINGS OF FACT AND LAW

36. Respondent is a corporation, so it is a "person," as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
37. At all times relevant to this Order, Respondent owned and operated the Pagel's Ponderosa Dairy, LLC Facility, a dairy farm located in Kewaunee, Wisconsin ("Facility").
38. The Facility is an Animal Feeding Operation because:
- a. the Facility includes lots or facilities where mature dairy (milking and/or dry) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, within the meaning of 40 C.F.R. § 122.23(b)(1)(i); and
 - b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of those lots or facilities, within the meaning of 40 C.F.R. § 122.23(b)(1)(ii).
39. The Facility is a "Large CAFO" because it is an Animal Feeding Operation that stables or confines more than 700 mature dairy cows.
40. Respondent applied for and was issued an NPDES Permit No. WI-0059374-03-0 by WDNR under Section 402 of the CWA, 33 U.S.C. § 1342, which became effective October 22, 2010, and expired October 31, 2015. WDNR reissued the Respondent's Permit, No. WI-0059374-04-0, which became effective on April 1, 2016, and expires March 31, 2021. At all times relevant to this Order, Respondent was authorized to discharge pollutants from the Facility to waters of the United States only in compliance with the specific terms and conditions of the Permit.
41. On March 8 and 9, 2017, personnel from EPA conducted a file review at the Facility (the 2017 Inspection). A copy of the inspection report EPA generated as a result of the 2017 Inspection (2017 Inspection Report) is included as Attachment 1 to this Order.

42. After the 2017 Inspection, EPA completed a review of Respondent's compliance with the requirements found in its Permit, Wis. Adm. Code Ch. NR 243 ("NR 243"), and applicable federal regulations, including 40 CFR §§ 122.23, 122.42(e), and 412. This review included, but was not limited to, an evaluation of the Facility's compliance with Permit requirements related to monitoring and sampling, recordkeeping, and reporting for 2010-2016, and with Permit requirements regarding land application of manure and process wastewater for crop years 2013-2016. The information and documents EPA reviewed include the Site's NMP Annual Updates for crop years 2010-2016; Annual Reports for crop years 2010-2016; Respondent's 2010 and 2016 Permit renewal application; and other records provided by Respondent's NMP writer.

43. According to the conditions in the Permit:

The permittee shall land apply manure and process wastewater in compliance with the Department approved nutrient management plan, NR 243.14 and the terms and conditions of this permit. Land application practices shall not exceed nutrient budgets determined in accordance with NRCS Standard 590, this permit, and NR 243.14 and shall be based on manure and process wastewater analyses, soil tests, as well as other nutrient sources applied to a field.

44. During the file audit, EPA personnel documented the following:

- a. In Crop Years 2015 -2016 ^{Ex. 6 (Personal Privacy)} applied Nitrogen 9 times at a Nitrogen rate inconsistent with the Permit, its Department approved NMP, NR 243.14, and NRCS Standard 590.
- b. ^{Ex. 6 (Personal Privacy)} failed to accurately report "Acres Applied" in its Annual Report, as required by its Permit and NR 243.19(3)(c)5, by appearing to report total acres, which includes areas where manure cannot be applied.
- c. ^{Ex. 6 (Personal Privacy)} underreported nutrient information, due to fewer acres being applied than ^{Ex. 6 (Personal Privacy)} calculated, as application rates are calculated based on the total acres of the field, instead of the actual acres to which manure was applied.
- d. For crop years 2014-2015, Respondent failed four times to accurately provide either the "Current Crop" or the "Prior Crop," as required by the Permit and NR. 243.19, as documented in Table 5 of the Inspection Report.
- e. ^{Ex. 6 (Personal Privacy)} failed to record the following information for any manure, process wastewater, or soil sample taken as a requirement of the Permit:
 1. The date, exact place, method, and time of sampling or measurements;
 2. The individual or lab that performed the sampling or measurements;
 3. The date the analysis was performed;
 4. The individual who performed the analysis; and
 5. The analytical techniques or methods used.

- f. [REDACTED] failed to contain maps in its Annual NMP Update for the following fields to which Pagel's land applied between 2013-2016:
1. 2013 11 Hazard Maps missing
 2. 2014 4 Hazard Maps missing
 3. 2015 4 Hazard Maps missing
 4. 2016 3 Hazard Maps missing

The maps are a requirement of the Permit, and are required to be submitted in accordance with NR 243.14.

- g. [REDACTED] did not meet the requirements for calculating application rates contained in NR 243.14(3), which requires that adjustments be made to assumed credit based on actual crop yields. [REDACTED] documentation only reports the planned yields for crops.
- h. [REDACTED] failed to make weather checks 24 hours prior to and 24 hours after application, as required by the Permit.
- i. [REDACTED] failed to document the temperature during application in Units Fahrenheit (F), as required by Form 3200-123A of the Permit.
- j. For Crop Years 2010-2016, [REDACTED] failed to comply with NRCS 590.
- k. For 2010-2016, [REDACTED] failed to document inspections or calibration for specific machinery used for land application, as required by the Permit.

45. As enumerated above, Respondent is in violation of its Permit conditions and limitations implementing Section 1311 of the CWA, 33 U.S.C. § 1311, in a permit under Section 1342 of the CWA, 33 U.S.C. § 1342, by WDNR. 33 U.S.C. § 1319(a)(3).

V. ORDER ON CONSENT

46. Based on the foregoing findings and the authority vested in the undersigned Director, Water Division, it is hereby ordered and agreed to in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondent comply with the following actions:
- a. By April 1, 2019, and annually thereafter until this Order's termination by EPA pursuant to Section IX, Respondent shall develop and submit to EPA and WDNR for approval an Annual Report and/or an Updated NMP that describes in detail the actions to be taken by Respondent to permanently remedy all Permit violations identified in this Order. The Annual Report and/or Updated NMP shall require Respondent to notify EPA upon completion of major actions undertaken to comply with this Order. Respondent shall also include a Table that identifies the location of all required provisions identified in Paragraph 46.b, below, in the Annual Report and/or Updated NMP.

- b. The Annual Report and/or the Updated NMP shall include provisions to ensure compliance with all Permit terms and include the following:
1. Nutrient application rates consistent with requirements of the Permit.
 2. Manure nutrient values used in calculating application rates based on same years sampling results, as required by your Permit.
 3. Crop nutrient budgets calculated in accordance with your Permit requirements and documented using actual crop yields.
 4. Manure and process wastewater sampling and analysis conducted according to the schedule specified in the Permit.
 5. All information required by the Permit to be recorded with sampling results.
 6. Form 3200-123A or a WDNR-approved equivalent (include documentation of WDNR approval if an equivalent form is used).
 7. Demonstrate compliance with NRCS 590.
 8. Annual Spreading Report with actual and accurate crop information, including an explanation of inconsistencies in reported crop information, if necessary.
 9. A list of all cooperating and Ex. 6 (Personal Privacy)-owned fields included in the Updated NMP.
 10. All fields soil maps and aerial photography of the site with the features required by s. NR 243 and permit WI-0059374 included in the Updated NMP.
 11. A description of the Mortality Management and practices used by Ex. 6 (Personal Privacy) to meet the requirements of NR 243.13(8), including the dates and methods of disposal. Also include:
 - a. A description of where the mortalities are stored until disposal.
 - b. Dates and times the mortalities are picked up for disposal.
 12. A list of all land application equipment and documentation of the required periodic inspections and calibrations on the equipment listed, as required by NR 243.19(a)5.
 13. A description of secondary containment measures installed to ensure chemicals, i.e. copper sulfate, teat dip, etc., stored in the Chemical Storage room do not discharge into the floor drain and subsequently to the Manure Storage Structure.
 14. Written documentation of WDNR's approval of any hazard maps that were not initially included in the annual NMP as approved land application sites.
47. Each time you report a spill or spills to Wisconsin DNR copy EPA on the spill report including the explanation for the cause of the spill, the action taken to clean-up the spill, date and time of the spill, date and time of the clean-up of the spill, exact location of the spill and the environmental harm caused by the spill.

48. Within thirty (30) calendar days of the Effective Date of this Order, Respondent shall post at the Site a summary of procedures to effectively respond to any spill or discharge to waters of the United States, and shall ensure that all employees are aware of and follow those procedures. The posted procedures shall contain detailed response and instructions which shall include, but not be limited to, the names of the officials to be notified, State and Federal Agencies to be notified, local or downstream public water supply and public health entities to be notified, appropriate phone numbers, addresses, safety precautions, and immediate actions to abate the occurrence.
49. This Order does not authorize Respondent to discharge pollutants to waters of the United States at or from the Site and/or land application areas under the control of the CAFO, and any such discharges are subject to enforcement unless they comply with Permit WI-0059374 and an approved NMP, or fall under the Agricultural Stormwater Exemption. Upon the Effective Date of this Order and until Respondent receives notification from EPA that they have satisfied all requirements of this Order, if for any reason Respondent discharges pollutants to waters of the United States, Respondent must visually monitor the discharge and immediately notify EPA by contacting Cheryl Burdett by telephone (312) 886-1463, and by e-mail at burdett.cheryl@epa.gov. Respondent must also immediately notify WDNR's 24-hour spill emergency hotline at 1-800-943-0003. In addition, Respondent must document the following information and submit a written report to EPA and WDNR within five (5) calendar days of becoming aware of the discharge, including:
- a. the cause of the discharge, including an estimate of the discharge volume, an estimate of the flow rate if the discharge is continuing and any analytical data;
 - b. the area receiving the discharge (*i.e.*, field, ditch, stream, or other description);
 1. the specific location of the discharge;
 2. the period of discharge, including exact beginning and end dates and times, and if not corrected, the anticipated time the discharge is expected to continue;
 - c. steps taken or to be taken to respond to, contain and mitigate the discharge;
 - d. corrective action taken to prevent recurrence of the discharge; and
 - e. apparent impacts to health or the environment resulting from the discharge, including, but not limited to, threats to surface water supplies, waters supply wells, recreational areas, and water quality.

VI. DOCUMENTATION AND SUBMISSIONS

50. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order shall be submitted to EPA electronically at r5weca@epa.gov and burdett.cheryl@epa.gov (with the term "WI0059374" included in the email subject line).

All electronically submitted materials should be in Portable Document Format (PDF) with Optical Character Recognition (OCR) applied to allow the materials to be searchable. To the extent Respondent cannot submit any required material by email, Respondent may mail such materials to the EPA Case Manager:

Cheryl Burdett, CAFO Program Manager
Water Enforcement Compliance Assurance Branch (WC-15J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Tel. (312) 886-1463
Burdett.cheryl@epa.gov

51. EPA may require status reports for the purpose of documenting the progress of the Work performed pursuant to this Order or compliance with the Permit requirements. Should EPA require status reports, EPA will provide the Respondent with at least 15 days from the date of EPA's request to submit the reports.
52. All reports, notifications, documentation, and submissions required by this Order shall be signed by a duly authorized representative of Respondent as specified at 40 CFR § 122.22(b) and (d) and shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information, including the possibility of fine and imprisonment for knowing violations.”
53. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 CFR Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order. The manner of asserting such claims is specified in 40 CFR § 2.203(b). Certain information related to effluent data (as defined in 40 CFR 2.302(a)(2)) and NPDES permit applications may not be entitled to confidential treatment. 40 CFR § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice. 40 CFR § 2.203(c).

54. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory shall notify EPA immediately. Knowingly submitting false information to EPA in response to this Order may subject Respondent to criminal prosecution under Section 309 (c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.
55. Submissions required by this Order shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by the U.S. mail.
56. Upon EPA approval, submissions by Respondent are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondent and this document and its subsequent modifications, this document and its subsequent modifications shall control.
57. EPA may use any information submitted in response to this Order in support of an administrative, civil, or criminal action against Respondent.
58. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

VII. GENERAL PROVISIONS

59. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.
60. The terms of this Order are binding on Respondent and its assignee and successors. Respondent must give notice of this Order to any successors in interest prior to transferring ownership, and must simultaneously verify to EPA, at the address specified in Paragraph 50, that Respondent has given the notice.
61. The undersigned signatory for each party has authority to bind each respective party to the terms and conditions of this Order.
62. Failure to comply with this Order may subject Respondent to penalties up to \$54,833 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d) and 40 CFR 19.
63. This Order does not affect Respondent's responsibility to comply with the CWA, its Permit, and any other local, state, and federal laws and regulations.
64. This Order does not restrict EPA's authority to enforce the Permit or any section of the CWA or its implementing regulations.

65. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA committed by Respondent, or to enforce this Order.
66. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may:
- a. assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 CFR Part 19 of up to \$16,000 per day of violation up to a total of \$177,500 for violations that occurred after January 12, 2009 through December 6, 2013; up to \$16,000 per day for each violation up to a total of \$187,500 that occurred after December 6, 2013 through November 2, 2015, or assessed before August 1, 2016; up to \$20,628 per day of violation up to \$257,848 for violations that occurred after November 2, 2015 and assessed on or after August 1, 2016 but before January 15, 2017; or to \$20,965 per day of violation up to total of \$262,066 for violations that occurred after November 2, 2015 and assessed on or after January 15, 2017; or to \$21,933 per day violation up to a total of \$274,159 for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2019;
 - b. seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and 40 CFR Part 19. EPA may seek civil judicial penalties of up to \$37,500 per day for violations that occurred after January 12, 2009 through December 6, 2013; \$37,500 per day for violations that occurred after December 6, 2013 through November 2, 2015, or that are assessed before August 1, 2016; up to \$51,570 per day for violations that occurred after November 2, 2015 and assessed on or after August 1, 2016 but before January 15, 2017; or up to \$52,414 per day for violations that occurred after November 2, 2015 and assessed on or after January 15, 2017; or up to \$54,833 for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2019, and;
 - c. seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

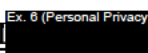
VIII. EFFECTIVE DATE

67. This Order shall become effective upon signature by EPA below and will remain in effect until Respondent has demonstrated compliance and EPA has notified Respondent pursuant to Paragraphs 68 through 70.


IX. FINAL REPORT AND TERMINATION OF THIS ORDER

68. Within 30 days after Respondent concludes that it has complied with all requirements of this Order, Respondent must submit to the EPA a written final report and certification of completion describing all actions taken to comply with all requirements of this Order.
69. After receipt and review of Respondent's final report and certification of completion submitted pursuant to Paragraph 68, EPA will notify Respondent whether it has satisfied all requirements of this Order. If EPA concludes that Respondent has failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions.
70. EPA reserves the right to terminate this Order based on a determination that the terms of the Order have been satisfied.

IT IS SO AGREED AND ORDERED:

FOR RESPONDENT ^{Ex. 6 (Personal Privacy)}  onderosa Dairy, LLC

Ex. 6 (Personal Privacy)

Signature 

3-25-2019

Date

Ex. 6 (Personal Privacy)

Name

CEO

Title

FOR THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

Linda Holst

Joan M. Tanaka
Acting Director
Water Division
U.S. EPA Region 5

04/03/19
Date